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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Alsup, Judge

GOOGLE, LLC, Plaintiff, VS. SONOS, INC., Defendant.	)	**NO. C 20-06754 WHA**
SONOS, INC., Plaintiff, VS. GOOGLE, LLC, Defendant.	)	**NO. C 21-07559 WHA**

San Francisco, California
Thursday, January 13, 2022

TRANSCRIPT OF TELEPHONIC PROCEEDINGS

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United States District Court - Official Reporter

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Thursday - January 13, 2022 **9:35 a.m.**

P R O C E E D I N G S

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THE CLERK: Calling civil action 20-6754, Google LLC versus Sonos, Inc. and related action 21-7559.

Counsel, please state your appearances for the record beginning with Counsel for Google.

MR. VERHOEVEN: Good morning, Your Honor, Charles Verhoeven on behalf of Google. With me is Lindsay Cooper. And we are ready to proceed.

MR. SULLIVAN: Your Honor, this is Sean Sullivan on behalf of Sonos. I have got a few other colleagues on the line. I will let them introduce themselves.

MR. RICHTER: Good morning, Your Honor, Cole Richter from the Lee Sullivan firm in Chicago on behalf of Sonos.

MR. ROBERTS: And good morning, Your Honor, this is Clement Roberts from the Orrick firm, also on behalf of Sonos.

THE COURT: Anyone else?

(No response.)

THE COURT: All right. Good morning to everyone.

Let me -- this is another motion to amend, and I think you also have some case management issues you want to bring up.

With respect to the motion to amend, is this true that with respect to the additional patent that Google wants to add to its declaratory judgment complaint, it's simply the same

patent that Sonos is asserting against it in the Texas case -- that was added to the Texas case?

And so in order to make the top pleadings line up, Google wants to add that in. So let me ask Sonos. Is that correct?

MR. SULLIVAN: Yes, Your Honor, that's correct. That is not what the dispute is on the present motion. We are fine with --

COURT REPORTER: I'm sorry for interrupting. Can you please identify yourself?

MR. SULLIVAN: I am sorry. Sean Sullivan on behalf of Sonos.

That is correct, Your Honor. We are not disputing that they can add that patent to their complaint.

THE COURT: Well, what then is the dispute? Tell me the dispute.

MR. SULLIVAN: Yeah, Sean Sullivan here again, Your Honor.

The dispute is over they want to add some breach and conversion claims, and we don't believe that those claims have any bearing on any of the issues in this case.

MR. VERHOEVEN: Your Honor, this is Mr. Verhoeven. Would you like me to begin?

THE COURT: All right. So let's -- yeah, explain to me why the conversion and breach of contract should be added in.

MR. VERHOEVEN: Sure, Your Honor. Again, this is Mr. Verhoeven on behalf of Google.

Just some background, this is basically a futility argument that they made.

We have filed a motion to amend the complaint, and we sought to add declaratory judgment claims, which aren't disputed, Your Honor; and then we have also sought to add a breach of contract claim and a conversion claim.

And that is subject to dispute, Your Honor, just to frame this issue. And the dispute is not prejudice. It is not -- it is basically futility. They are arguing the merits.

And so let me turn directly to these claims, the breach of contract and conversion.

In order for me to start, I need to give a little background, Your Honor. And -- so let me just set the stage here.

In 2013, Your Honor, Sonos approached Google and sought to work with Google to help integrate some of Google's services into some of Sonos' products.

They sought help from Google with respect to features such as the ability to host music remotely; what we call Cloud Queue today. We knew how to do that. They didn't.

Google agreed to help Sonos, and they have entered into a collaboration agreement; but as part of that collaboration agreement, Your Honor, Google insisted -- and this is in

section 3.4 of the collaboration agreement -- that, quote, any and all -- let me read you the quote -- 3.4, quote, ownership of service provider -- that is Google -- intellectual property rights.

"The music service, the provider developments, as defined below, and any and all intellectual property rights arising from or related thereto are and shall remain the sole and exclusive property of service provider." That's Google, Your Honor.

Next sentence, "Sonos will not claim for itself or for any third party any right, title, interest, or license to the music service or provider developments."

And then it goes on to define provider developments as any and all development work done by or on behalf of Google in creating the integrated service offering and any code or other materials owned or controlled by service provider Google and included by service provider Google in the integrated service offering.

And then it goes on. So we -- Google agreed to work with Sonos provided that it had these protections.

Now, the first time that Google had any notice of a breach of section 3.4 was when the complaint was filed in this case, Your Honor.

And in that complaint, Sonos accused products that were the result of the development exercise in breach of this

provision and claimed -- and asserted their intellectual property rights against products of that nature.

And, in fact, in their opening --

THE COURT: I'm confused. The phone cut out for a split second.

MR. VERHOEVEN: Sure.

THE COURT: I'm sorry. Go back to who is accusing who of what. You never told me what the accused product is and whether it is Google's product or Sonos' product.

It sounds like you are suing Sonos. This is very confusing. So go back about two sentences and start over.

MR. VERHOEVEN: Okay. So Sonos filed a complaint against Google in the Western District of Texas alleging patent infringement.

If you look at the complaint, Your Honor, the patent infringement claim -- and this is a motion to amend -- to add counterclaim for breach of contract to that claim.

So they asserted breach -- excuse me -- they asserted patent infringement on a number of patents. They accused products that were Google products developed as part of this collaboration agreement.

They went further than that, Your Honor. They alleged in the complaint that Google used -- this is a quote from paragraph 14 -- quote, Google used the knowledge it had gleaned from Sonos to build and launch its first wireless multiroom

audio product, Chromecast Audio; and they are accusing the result of the -- results of the collaboration are the very things that they are accusing of being misappropriated IP.

And so when they filed this, as Your Honor remembers, we had a motion to transfer. We objected to jurisdiction.

But we did answer -- so we couldn't file an affirmative counterclaim. And the reason for that, Your Honor, is because the exclusive forum selection clause agreed to by the parties in California.

And Your Honor had -- as of the time that any motion would be relevant in the Western District of Texas, in the Northern District of California -- Your Honor stayed the Northern District of California case.

So we couldn't file a motion to amend to add new breach of contract claims in the Northern District until the stay was lifted, which is what we did.

And we did not file it in Texas because we were challenging jurisdiction in Texas. You know, we didn't want to file an affirmative claim seeking relief from the Court in Texas at the same time we were challenging jurisdiction.

So we filed our motion to amend timely after the Court lifted the stay in the Northern District in the proper jurisdiction.

And so now we have this dispute where something that is -- is a foundational argument placed in the original complaint by

Sonos, they are saying we can't talk about it.

They are saying we can't have a motion to amend to say, in fact, there is this section 3.4 of this contract where we worked together and says we own these products. We own the IP in these products.

And by asserting that you own it and that you are -- and that you, Google, own it or -- excuse me -- you, Sonos, own it and that Google has no rights to it, you are breaching section 3.4 of the collaboration agreement.

And so that's --

THE COURT: Wait.

MR. VERHOEVEN: Sorry, Your Honor.

THE COURT: Wait a minute. What did that provision say again?

MR. VERHOEVEN: Sure. The provision is 3.4 of the content integration agreement.

I'm looking for a docket cite to that. But in the meantime, it is 3.4 of the agreement.

And I will read it: "Ownership of service provider intellectual property rights." That is the title of the paragraph. Service provider in this contract, Your Honor, is Google.

"The music service, the provider developments, as defined below, and any and all intellectual property rights arising from or related to thereto are and shall remain the sole and

exclusive property of service provider." That's Google.

Next sentence: "Sonos will not claim for itself or for any third party any right, title, interest, or licenses to the music service or provider developments" -- and then it says -- "except for the limited license granted herein."

And then it goes on -- then it goes on to define provider developments. I don't know if you need to hear that. It is very broad and covers everything.

And so this collaboration that we are seeking to amend -- file an amendment to have a counterclaim for breach was part of their complaint in the original complaint.

And they claim willfulness based on the collaboration agreement throughout their complaint in Texas.

We have not had an opportunity to file a counterclaim until the stay was lifted in the Northern District of California.

However, Your Honor, it should be noted that in our answer, we asserted affirmative defenses based on the same theory, the same breach.

So, we have an implied license affirmative defense based on this very provision of the contract, Your Honor.

We have equitable estoppel defense. We have a couple other affirmative defenses, all based on this same section.

And all we are doing with this motion to amend is adding in the counterclaim that would go along with the same facts.

THE COURT: All right. Let me ask you a question. I have got self questions. But if it's -- are you saying that the accused -- are you saying that the patents themselves -- Sonos' patents arose out of that collaboration agreement such that the wrong inventors were given to the PTO?

I don't -- I want to make sure I understand your argument. Go ahead.

MR. VERHOEVEN: Sure, Your Honor.

So, that's the opposition's argument. They are saying our breach of contract claim is futile, and then they go on to argue the facts, not the pleadings.

And they say it is futile because two of the patents that we are asserting that came out of that -- that correspond to the products that came out of that development -- in other words, the development -- the Cloud Queue development undisputably, it came out of the collaboration agreement.

Undisputably they are claiming IP. Undisputably they are accusing us of infringement on that. So, that part is clear.

In the opposition to that, our motion to amend, they say, it is futile because the two patents that we, Sonos, are asserting against that product, that came out of the collaboration agreement, preexisted the collaboration agreement in terms of the original filing date was.

And then they go on and say to Your Honor in writing that the agreement -- this is a quote, docket 81 at 6 -- quote, is

explicitly limited to new intellectual property rights arising from the parties' collaboration. And it goes on.

That's not true. You look at section 3.4. It includes, quote, any and all intellectual property rights arising or related thereto.

Again, these are all factual questions, not appropriate on a motion to dismiss or futility.

But in any event, Your Honor, these (sic) provision covers our product that they are accusing regardless of what patents that Sonos had in the past because they have contractually given us a right and said they won't assert any rights -- any intellectual property rights on these products, number one.

Number two, the statement about the Cloud Queue patent and that it was filed before the collaboration is highly misleading.

In fact, in 2019, after the collaboration, Sonos amended that patent to add in the Cloud Queue technology that Google provided for Sonos and claim it as their own.

And they are saying we can't even make these points because we are going to lose -- trust me. They are going to lose.

And it's just -- it is a typical arguing the merits when the pleadings satisfy the pleading standards, Your Honor.

If I could just briefly talk about their second basis for futility to save time, Your Honor.

THE COURT: No, not yet.

MR. VERHOEVEN: Okay.

THE COURT: I want to hear the response to your argument. And I'm not prejudging anything here, but I want to summarize what I think Mr. Verhoeven's argument is so that the responding lawyer will have in mind what bothers me and maybe address it.

Here is what bothers me: The two sides had an agreement back in 2013, collaboration agreement, that seems to say that any and all intellectual property that comes out of that collaboration will belong to Google.

And then somehow the -- Sonos, despite that agreement, was able to get patents out of the PTO that cover that very technology.

And now the -- and is suing Google on it even though the contract said it would belong to Google.

Now, I'm not saying there must be something wrong with that argument; but if it were true, then Sonos and their lawyers would be in a lot of trouble with me.

So you go ahead and let me hear from the Sonos lawyers.

MR. SULLIVAN: Yes, Your Honor, this is Sean Sullivan on behalf of Sonos.

And, yeah, it is not true what Mr. Verhoeven said. And, listen, there are a lot of things that I'd like to -- if I had more time, I would disagree with Google's characterization of

the background of this as well as what the contract is really covering.

I would also want to clear up the pleadings. These are not counterclaims, Your Honor. These are actual claims that Google is trying to file in its original complaint now.

They are trying to amend the original complaint to add these as claims. They are not affirmative counterclaims or anything else like Mr. Verhoeven said.

You can take a look at the second amended complaint, and you can see that they are counts along with their other counts.

So, there is a lot to deal with there. But let me just jump into the issue and address the point you raised, Your Honor.

What happened was the '615 and the '033 patents, which is what these breach and conversion claims are directed towards, those have priority dates going back to December of 2011.

So that means that the written description for the invention in those patents was filed with the Patent Office in December of 2011.

Now, we know that the CIA was signed in 2013. This was signed for a collaboration between the parties to be able to enable -- and this is said right up until the whereas clause in the front of the CIA contract -- it is to enable these parties to have the ability for Google's music app to directly play music to Sonos' music system. That's it.

We are not accusing that of infringement here, Your Honor. The problem was -- is that Google didn't have any of these speaker products or hadn't let other people -- other competitors of Sonos use this technology until well after this collaboration.

Their first product was launched in September of 2015, but it finally added multiroom support at the end of 2015.

So, this was a very limited development here simply for Google's Play music app to be used with Sonos' music system. That's it.

Now, the intellectual property rights clause that Mr. Verhoeven is referring to, that is talking about intellectual property that is arising from the development work, okay, that is being done as part of this collaboration.

It is not transferring all ownership of all Sonos patents prior to this collaboration. It is dealing with intellectual property. So inventions, right, inventions that are created during this development work.

All right. You can't invent something that has already been invented.

The inventions in the '615 and '033 patents were described and contained in the priority document filed with the Patent Office in 2011. They are already invented.

So clearly --

THE COURT: No, wait, wait.

MR. SULLIVAN: -- they can't cover those facts.

THE COURT: Wait --

MR. SULLIVAN: Yes.

THE COURT: Wait, wait, wait. Let me ask a question.

MR. SULLIVAN: Yes, sir.

THE COURT: Were those pending claims amended after the collaboration began?

MR. SULLIVAN: Yes, but the claims that were amended after -- these are newer patents that were issued after the collaboration.

But those claims have to have support, Your Honor, in the 2011 filing. You can't claim something that isn't in there. The patent would be invalid if you did.

THE COURT: I get that. I understand that is basic law.

MR. SULLIVAN: Right.

THE COURT: It happens all the time and they are lurking in a specification -- lurking inventions that are not actually claimed.

And so it could be that the collaboration, the light bulb went off; say oh, my God, we can claim this; that's the ticket because of -- and then maybe it would not have been claimed but-for the specification. So, what do you say to that point?

MR. SULLIVAN: Yeah, Your Honor. If it was already in the specification, then there wasn't a light bulb to go off

during the collaboration.

We had already written and described that invention in a 2011 specification before -- years before we ever talked to Google.

So, it isn't something that could have been developed or invented during that collaboration; right.

THE COURT: I have to disagree -- let me disagree with that. I have seen it in too many cases --

MR. SULLIVAN: Okay.

THE COURT: -- where somebody says -- tries their best to -- they revise their claims in order to read on somebody else's product, and they originally didn't have any intent to claim X, Y, Z. But then whenever they had -- a reason comes along, they say, oh, we can stretch the specification to cover X, Y, Z. And it was because they want a read on somebody else's product.

So, it was not originally claimed; but then it winds up getting through the PTO. PTO says, okay, we accept that.

But -- so to me there would be a nice question if it could be shown that the amendment was provoked by the collaboration.

Now, I don't know whether it could be or not. That's the facts. But I can see a hole in your argument; that the specification covered it; but it would not have been influenced -- it is true about the specification because it is locked in stone. But the claims are not, and the claims are --

MR. SULLIVAN: The claims are not, Your Honor.

THE COURT: -- need to be asserted.

MR. SULLIVAN: Yes. The claims are not, Your Honor. They are not locked in stone, you are correct. But the date of invention for that claim is locked in stone. It is 2011.

Whether you change the claims or not after you see something or something is revealed, that's not really the issue.

The issue is when did you invent that? You invented it in 2011. That's your invention date for purposes of prior art and everything else like that. You are entitled to that --

THE COURT: Is there a Federal Circuit case on point that helps us understand this problem?

In other words, it accepts your argument and says that an agreement like this doesn't matter because the specification preceded it?

MR. SULLIVAN: I don't know if there is, but the logic is black letter law, Your Honor. I mean, you are entitled to a 2011 invention date for those claims if they are supported. Otherwise, the patent is invalid.

THE COURT: I'm not accepting that proposition yet --

MR. SULLIVAN: Okay.

THE COURT: -- because the claims can be monkeyed around with. After you know the secret sauce, then you can mess around with your claims and claim something you wouldn't

otherwise have claimed.

All right. Look, I'm going to let you take your most important point; and then I will let the other side respond. Go ahead.

MR. SULLIVAN: All right. Thank you, Your Honor. Again, this is Sean Sullivan on behalf of Sonos.

And, you know, the important point is the timing there; but I did want to address in particular the '615 patent.

So, at the basis of these breach and conversion claims, this lynchpin, it is the same set of facts for all these claims.

It basically says we in 2019 added a limitation that is known as remote playback queue to the claims of the '033 patent. That is at the heart and the foundation of all their claims; that you added this remote playback queue limitation to the claims of the '033 patent in 2019.

All right. Well, that means that their claims cannot apply to the '615 patent. The '615 patent doesn't use that limitation, remote playback queue.

And, in fact, the '615 patent issued in May of 2018, more than a year before this 2019 amendment concerning the remote playback queue in the '033 patent.

So, at an absolute minimum, there is just no way these breach claims and conversion claims cover the '615 patent.

What Google has done is just lumped the two together and

said, oh, they are roughly the same subject matter.

But their claims are really -- if at all, valid or viable. I don't think they are for the reasons I said before -- but if they are viable, they are only viable to the '033 patent. They cannot be viable right from their pleading to the '615 patent.

Now, I don't think they are viable to the '033 patent as well. I think the question of whether or not they are an inventor, the question of whether or not, you know, these claims are supported by that original spec and were encompassed by that 2011 filing, that is going to take care of itself under patent law, Your Honor.

If these are valid and the claims of the '033 patent are supported by the 2011 spec, then, again, as I said before, the invention date for that claim is before the collaboration agreement existed.

And if they are invalid, then my point is that there is no intellectual property rights here to dispute ownership. There is nothing to own. It is an invalid patent.

THE COURT: Well, yes, but they are pleading in the alternative -- it is just the way patent lawyers are. They -- Mr. Verhoeven, I have got to move on. I will give you one minute to respond on the '615.

MR. VERHOEVEN: Thank you, Your Honor.

Let me be very clear, Your Honor, I don't want any mistakes in Your Honor's understanding.

The allegation about amendment is not with the '615; right. It is with the other one, the other patent, the '033.

However -- and I'm going to say very quickly a second point, Your Honor -- our motion to amend doesn't specifically allege specific patents.

It is just motion to amend for breach of contract. We need to take discovery. We need to do the regular thing.

But the reason I dispute the statement about this particular patent and futility is because of the language in 3.4.

Now, Counsel says that the collaboration agreement was limited, and it implies that Google products, that it is not -- that the product that was developed was very narrow and not all of these Google products.

Paragraph 14 of their complaint -- I will read it again -- "Google used the knowledge it had gleaned from Sonos to build and launch its first wireless multiroom audio product, Chromecast Audio." That's paragraph 14 from their complaint.

So, they have alleged that Chromecast Audio came out of this agreement and that we used Sonos information from this collaboration to make it, and that it is violative of patents.

Regardless of what the patents are, Your Honor, we still have a breach of contract claim under section 234 because they promise that, quote, Sonos should not claim for itself or for any third party any right, title, interest, or licenses in the

music service or provider development.

And that is exactly what it is doing. That's all I have, Your Honor.

THE COURT: All right. I'm going to take it under submission, but you had a case management point that you wanted to raise. So Mr. Verhoeven, tell me what that is.

MR. VERHOEVEN: Thank you, Your Honor. I think we have a --

THE COURT: Yeah, we are hearing a female voice in the background of somebody who failed to mute themselves; and you might not want us to hear all of that. So please mute yourself. All right. Mr. Verhoeven, go ahead and explain the case management point.

MR. VERHOEVEN: All right, Your Honor. So the first -- there is one thing I want to speak to and that is, one of the things in the case management conference is an addition that was added by Sonos at 4:00 o'clock the day that the statement was due, where they asked for consolidation and then asked to realign the parties.

Of course, we didn't have any notice that they were going to make that argument. But so that Your Honor knows, we do not oppose consolidation of the cases.

We vigorously oppose any effort to realign the parties at this point in time. As Your Honor knows, motions to realign the parties are premature at this early stage.

We don't know what causes of action are going to be going to trial. We don't know who is going to win what on summary judgment.

And as you have just heard, Your Honor, we have got affirmative claims here that go with their claims.

And so, you know, at a minimum, it should be a motion that gives us an opportunity to brief it. But I really don't think it is even necessary because it is premature to address alignment of the parties for a jury trial at this point.

There is some depositions -- there is an hour cap dispute that Ms. Cooper can address. Ms. Cooper, are you there?

MS. COOPER: Yes. Good morning, Your Honor.

I just want to get your views on this because I think it will inform discovery going forward over the next few months.

So the parties have agreed to a 100-hour limit on depositions, but there is a dispute as to whether that limit applies to third parties or not.

Our position -- Google's position is that third parties should be excluded from the cap, and the reason for that is because there is going to be a significant number of prior art depositions in this case.

I can go through the list if you want, but we have at least six including one of Sonos' named inventors. So, it is important that we get clarity on this so we can move forward with depositions.

THE COURT: Where did the 100 thing come from to begin with? I don't remember imposing that.

MR. ROBERTS: Your Honor, this is Mr. Roberts -- Your Honor, this is Mr. Roberts. If you'd like, the 100 hours came from -- Your Honor --

THE COURT: I would like you to explain to me your view.

MR. ROBERTS: Thank you, Your Honor.

I will address both issues taking them in reverse order.

There are two cases, one in which Google was Plaintiff in front of Judge Chen and then these cases in front of Your Honor.

In the Judge Chen case, the parties agreed to a hundred-hour cap that included both third parties and all parties. And we then imported that agreement here.

But Google wants a hundred-hour cap when it's Plaintiff including third parties. But when it is the Defendant, it wants a hundred-hour cap but then unlimited third-party depositions.

And we know Your Honor wants -- thinks these cases are too expensive. They get too overwhelming. There is too much discovery. Resources should be better spent on other things.

And we think what is good for the goose is good for the gander. If Google when it is Plaintiff wants the Defendant limited to a hundred hours in the Northern District of

California including third parties, it should agree to that; and we should have the same limits in reverse when it is Defendant.

It shouldn't be one set of rules when it is Plaintiff and a different set of rules when it is a Defendant.

And everybody agrees there has to be some cap; otherwise, we are going to have bedlam in terms of the total number of hours.

That's it on that issue. Would you like me to address the consolidation?

THE COURT: Mr. Verhoeven, is it true that you are trying to get more hours for you when you are the Plaintiff; but you want them to be stuck when they are the Plaintiff with lesser hours -- fewer hours; is that true?

MR. VERHOEVEN: No, it's not. And it is another stretching of what actually is going on.

There was no request made for any additional third-party depositions in that case by Sonos to us, Google.

So, you know, they are saying we wouldn't have agreed to it or we have some double standard. They didn't even ask for it in that case, Your Honor. So, there is no double standard.

The first time that there was a request for additional depos to conduct third-party discovery was in this case. It was never made by Sonos in that other case.

So, to say that there is a double standard is highly

misleading.

MR. ROBERTS: So, what I hear -- this is Mr. Roberts. What I hear Mr. Verhoeven saying is that he is going to stipulate in the Chen case that we get unlimited third-party deposition hours if the Court here allows it. Do I hear you correctly, Mr. --

THE COURT: What does Judge Chen have to do with my case?

MR. ROBERTS: The point is, Your Honor, again, that we are attempting to negotiate in good faith limits on discovery in line with this Court's very strict limits.

We -- instead of what the normal Federal Rule of Civil Procedure is, which is a certain number of depositions, the parties agreed to a number of hours.

And, you know, if the Court wants to impose the limits under the Federal Rules, which are the number of depositions that people get, that's fine too.

We had tried to give additional flexibility by agreeing to a number of hours, but it is not the case that there is an unlimited number of depositions of third parties or anybody under the Federal Rules.

THE COURT: I know. But why does anyone even refer to Judge Chen?

MR. ROBERTS: Because, Your Honor, in that case Google argued for -- and Sonos agreed -- that we would have a

hundred-hour limit that included both third parties and parties in the case where they are patent Plaintiffs. And we agreed to that because that's what they wanted.

THE COURT: I see. So in that case Google is suing Sonos?

MR. SULLIVAN: Correct, Your Honor.

MR. VERHOEVEN: Correct, Your Honor. And they did not ask for additional time for third parties in that case, period.

THE COURT: Well, do you want additional time in that case?

MR. ROBERTS: Your Honor, we want the rules to be the same in both cases. So, honestly, I prefer a hundred hours in both cases because I'd prefer the discovery to be limited.

But if the Court is going to grant additional hours here for third parties, then, yes, we would want them there as well.

THE COURT: Look, I have had this problem in other cases although it has never been framed in terms of a hundred hours.

But this is easy. Use up the hundred hours first on everybody. So, in other words, for right now I'm agreeing with Sonos.

But when you get near the end, I will grant you a little bit more time if -- and here is the big if -- if the party requesting more time has behaved properly with respect to disclosures and with respect to discovery.

If you misbehave, you don't get any more time. So you are at risk.

If I go ahead and give you the time now, then you will misbehave anyway. So, I have learned the hard way. I hold this -- I will be very blunt. I hold this over your head.

And if you goof up and you misbehave, you won't get any more time.

So for right now I'm going to leave the 100 hours, it applies to everybody including third parties. But I will be open if you are a good citizen and you come back later and say, we have used up 90 hours. Can we have 20 more? And it looks to me like you have been a good citizen, I will give you the extra time very likely and there will be other considerations.

I would be very open to it. You would have to make your case as to why you needed it.

So, that's the ruling on that. I don't want to hear anymore argument. That is the ruling.

MR. ROBERTS: Thank you, Your Honor.

THE COURT: What was your issue about consolidation? But wait. I'm not going to say now who gets to go first at trial. No. That's way premature.

MR. ROBERTS: We will brief it later. This is Mr. Roberts.

THE COURT: What else do I need to decide in case management?

MR. ROBERTS: Those are the only two issues as far as I know, Your Honor. At this point I think everything else you can just go off the papers.

THE COURT: All right. I have to do -- I have got to give you an order on this motion to amend. I'm not prepared to say what the answer is going to be.

Okay. You-all can hang up now and I will go to the next case -- the last case.

(Proceedings adjourned at 10:15 a.m.)

---oOo---

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

DATE: Monday, January 17, 2022

Marla Knox

Marla F. Knox, CSR No. 14421, RPR, CRR, RMR
United States District Court - Official Reporter